

AO91 (Rev. 8/01) Criminal Complaint

UNITED STATES DISTRICT COURT

SOUTHERN

DISTRICT OF *10 AM*

TEXAS

U.S. MAGISTRATE COURT
JSH - SDTX
FILED

AUG 26 2014 DF

UNITED STATES OF AMERICA

V.

James Michael MENDOZA
Laredo, TX
US

Rafael Eduardo TORRES

(Name and Address of Defendant)

CRIMINAL COMPLAINT

David J. Bradley, Clerk
Laredo Division

Case Number: 5:14-mj-1122-1

2

f PD det 1 file 2/2/14
U- probable cause
findings of the time. joi

I, the undersigned complainant state that the following is true and correct to the best of my knowledge and belief. On or about August 23, 2014 in Webb County, in the Southern District of Texas James Michael MENDOZA and Rafael Eduardo TORRES, a citizen of the United States and United States, did unlawfully transport 2 undocumented alien(s) within the Southern District of Texas knowing or in reckless disregard of the fact that said alien(s) had come to, entered, or remained in the United States in violation of law, and transported or moved said alien(s) within the United States by means of motor vehicle or otherwise, in furtherance of such violation of law;

in violation of Title(s) 8 United States Code, Section(s) 1324

I further state that I am a(n) Border Patrol Agent and that this complaint is based on the following facts: Based on statements of the accused and records of the U.S. Department of Homeland Security.

Continued on Affidavit

Continued on the attached sheet and made a part of this complaint:

Yes No

Alex Chirinos
Signature of Complainant

/S/

Alex Chirinos
Printed Name of Complainant

Sworn to before me and signed in my presence,

August 26, 2014

Date

J. Hacker, U.S. Magistrate Judge
Name and Title of Judicial Officer

at Laredo, Texas
City and State

J. Hacker
Signature of Judicial Officer

CONTINUATION OF CRIMINAL COMPLAINT

AFFIDAVIT

In support of Criminal Complaint

UNITED STATES OF AMERICA
V.

James Michael MENDOZA, Rafael Eduardo
TORRES

CRIMINAL COMPLAINT

Case Number: 5:14mj 1122 - 1
2

On August 23, 2014, at approximately 6:00 a.m. A Border Patrol Agent was working his assigned duties near the town of Encinal, Texas located on Interstate Highway 35 and State Highway 44. The agent was traveling south on Main Street when he noticed a vehicle coming from east to west underneath the over pass at the 38 mile marker of IH-35. The agent turned around to follow and get a better look of the driver and passengers. The vehicle was traveling at a high rate of speed and when the agent attempted to close in, he noticed that the vehicle was being driven erratically and in a reckless manner. It appeared to the agent that the driver was trying to evade the marked Border Patrol unit. The vehicle was traveling north on Main St. and then turned east on Highway 44. The vehicle then turned north on to IH-35. The agent observed a total of four subjects in the vehicle as they merged onto IH-35. The two rear passengers were seated upright and demonstrated a common behavior of suspected undocumented aliens. Both subjects refused to look in any other direction but straight ahead. The agent noticed that the route of travel taken was not consistent with normal local traffic in the area at that time of day and that from previous experience that route was taken by alien smugglers in the past. He then decided to run a registration check through radio dispatch KAK-940. The vehicle, a white Ford Mustang convertible was displaying Texas Plate DDF-3813. The vehicle was registered to James Mendoza. He then requested a 72 hour vehicle lane check and it was positive through the Laredo West Border Patrol Checkpoint located on Highway 83. After running the vehicle lane check the agent's suspicion grew when the vehicle that he was following had traveled north on Highway 83 and was not the most direct route of travel to Encinal, Texas. He then noticed that the vehicle had traveled east on Hwy. 44 south from Encinal and now was traveling north on IH-35. With this information the agent decided to perform an immigration inspection on the subjects. The vehicle sped off after he activated his emergency equipment, at that time he contacted KAK-940 on his service radio and advised of a Failure to Yield. He then de-activated his emergency equipment and continued north on IH-35 to locate a safe area to perform a U-turn and proceed south when he noticed that there was a vehicle on the side of the road parked on the shoulder.

Upon arrival at the location, the agent noticed that the vehicle was the same vehicle. He approached the vehicle and noticed two subjects attempting to restart the vehicle. When he moved toward the vehicle he noticed that the subjects that were sitting in the rear passenger seat had absconded. He then instructed the subjects not to move until back up arrived on scene. Once agents arrived on scene the two subjects were detained for questioning on the case and placed into the Border Patrol Service Units.

The driver was later identified as James Michael Mendoza and the front passenger was Rafael Eduardo Torres. Both the driver of the vehicle and the passenger was incoherent due to the fact that they had been drinking alcohol. There was evidence in the vehicle of open containers and the smell of alcohol was evident on both of the subjects. When questioned, both of the subjects stated that they had been drinking beer.

The two subjects that had absconded from the vehicle were later encountered in the brush. With the help of a service canine unit, agents tracked the foot sign of two subjects leaving the immediate area. A brief field interview of the subjects revealed that they were present in the United States illegally. The two subjects were placed under arrest and escorted back to the vehicle. At the vehicle they were questioned if they were the passengers in the white Mustang and they both replied that they were. They stated that they were told by the driver to get out of the vehicle after it stopped on the side of the road. All subjects were placed under arrest and transported to the Laredo North Station.

BAUTISTA-Cabrera, Salomon stated that he was in the vehicle and he had absconded after the vehicle stopped. BAUTISTA-Cabrera stated that he was going to pay \$2,000 USD to be smuggled to San Antonio, Texas. When BAUTISTA-Cabrera was asked if had paid any money he responded that he paid \$900.00. BAUTISTA-Cabrera identified Mendoza as the driver of the white Mustang that he was in. BAUTISTA-Cabrera also identified Torres as the front passenger of the vehicle.

ARGUALLES-Castro further stated that he made the arrangements with the smuggler over the phone to get picked-up after circumventing the Border Patrol Checkpoint on IH-35. ARGUELLES-Castro stated that he had also paid \$900. He further stated

that he was going to pay the smugglers the rest of the money once they arrived to their final destination. ARGUELLES-Castro identified Mendoza as the driver of the white Mustang that he was in. ARGUELLES-Castro also identified Torres as the front passenger of the vehicle.

At the Laredo North Station Mendoza and Torres were read their Miranda right as to service form 214 by an agent and was witnessed by another. Both subjects refused to answer any questions at the time without an attorney present. All questioning on the case stopped at that point.

SUBSCRIBED and SWORN to before me this _____ day of _____.

Signature of Judicial Officer

Signature of Complaint